

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR
SENATE BILL 23

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO MEDICAL CARE; PROVIDING TORT IMMUNITY TO CERTAIN
HEALTH CARE PROVIDERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 41-4-3 NMSA 1978 (being Laws 1976,
Chapter 58, Section 3, as amended) is amended to read:

"41-4-3. DEFINITIONS.--As used in the Tort Claims Act:

A. "board" means the risk management advisory
board;

B. "governmental entity" means the state or any
local public body as defined in Subsections C and H of this
section;

C. "local public body" means all political
subdivisions of the state and their agencies, instrumentalities
and institutions and all water and natural gas associations

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1 organized pursuant to Chapter 3, Article 28 NMSA 1978;

2 D. "law enforcement officer" means a full-time
3 salaried public employee of a governmental entity whose
4 principal duties under law are to hold in custody any person
5 accused of a criminal offense, to maintain public order or to
6 make arrests for crimes, or members of the national guard when
7 called to active duty by the governor;

8 E. "maintenance" does not include:

9 (1) conduct involved in the issuance of a
10 permit, driver's license or other official authorization to use
11 the roads or highways of the state in a particular manner; or

12 (2) an activity or event relating to a public
13 building or public housing project that was not foreseeable;

14 F. "public employee" means an officer, employee or
15 servant of a governmental entity, excluding independent
16 contractors except for individuals defined in Paragraphs (7),
17 (8), (10) and (14) of this subsection, or of a corporation
18 organized pursuant to the Educational Assistance Act, the Small
19 Business Investment Act or the Mortgage Finance Authority Act
20 or a licensed health care provider providing voluntary services
21 as defined in Paragraph (16) of this subsection and including:

22 (1) elected or appointed officials;

23 (2) law enforcement officers;

24 (3) persons acting on behalf or in service of
25 a governmental entity in any official capacity, whether with or

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1 without compensation;

2 (4) licensed foster parents providing care for
3 children in the custody of the human services department,
4 corrections department or department of health, but not
5 including foster parents certified by a licensed child
6 placement agency;

7 (5) members of state or local selection panels
8 established pursuant to the Adult Community Corrections Act;

9 (6) members of state or local selection panels
10 established pursuant to the Juvenile Community Corrections Act;

11 (7) licensed medical, psychological or dental
12 arts practitioners providing services to the corrections
13 department pursuant to contract;

14 (8) members of the board of directors of the
15 New Mexico medical insurance pool;

16 (9) individuals who are members of medical
17 review boards, committees or panels established by the
18 educational retirement board or the retirement board of the
19 public employees retirement association;

20 (10) licensed medical, psychological or dental
21 arts practitioners providing services to the children, youth
22 and families department pursuant to contract;

23 (11) members of the board of directors of the
24 New Mexico educational assistance foundation;

25 (12) members of the board of directors of the

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1 New Mexico student loan guarantee corporation;

2 (13) members of the New Mexico mortgage
3 finance authority;

4 (14) volunteers, employees and board members
5 of court-appointed special advocate programs; ~~and~~

6 (15) members of the board of directors of the
7 small business investment corporation; and

8 (16) health care providers licensed in New
9 Mexico who render voluntary health care services without
10 compensation, including:

11 (a) optometrists;

12 (b) chiropractic physicians;

13 (c) dentists;

14 (d) physicians;

15 (e) podiatrists;

16 (f) osteopathic physicians;

17 (g) physician assistants;

18 (h) certified nurse practitioners;

19 (i) physical therapists;

20 (j) occupational therapists;

21 (k) speech-language pathologists;

22 (l) doctors of oriental medicine;

23 (m) nutritionists;

24 (n) psychologists;

25 (o) certified nurse-midwives;

1 (p) clinical nurse specialists;

2 (q) registered nurses;

3 (r) dental hygienists;

4 (s) pharmacists;

5 (t) athletic trainers; or

6 (u) anesthesiologist assistants;

7 G. "scope of duty" means performing any duties that
8 a public employee is requested, required or authorized to
9 perform by the governmental entity, regardless of the time and
10 place of performance; and

11 H. "state" or "state agency" means the state of New
12 Mexico or any of its branches, agencies, departments, boards,
13 instrumentalities or institutions."

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